

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 399 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 - No

AMARDEEP PROVISION STORES

Versus

AHMEDABAD MUNI. CORPORATION

Appearance:

MR BN RAVAL for appellant

MR SD DAVE for NANAVATI & NANAVATI for Respondent

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 05/07/1999

ORAL JUDGEMENT

1. By this Appeal from Order under 0.43 R.1 (r) of
the Civil Procedure Code, appellant has brought in
challenge order dated 24.8.1987 recorded below Notice of
Motion in Civil Suit No. 655 of 1987 by learned Chamber
Judge, City Civil Court, Ahmedabad, whereby the learned
Judge has refused the interim injunction by not granting
discretionary relief in favour of the appellant.

2. The suit in question was filed by the appellant
challenging action of the respondent of issuance of
notice under Section 262 of the Bombay Provincial
Municipal Corporations Act.

3. Today when the matter was called out, learned advocate Mr. S.D. Dave for M/s. Nanavati & Nanavati, for the respondent has stated that the Civil Suit No. 655 of 1987 has already been tried by the learned Judge, City Civil Court, Ahmedabad and by recording order dated 28.11.1998 dismissed the suit. He has placed on record xerox copy of the certified copy of the judgment and decree recorded by the learned Judge, City Civil Court, Ahmedabad, in the suit. He contended that in view of the dismissal of the suit, now the aforesaid Appeal from Order has become infructuous.

4. I have perused the order impugned recorded below Notice of Motion which is taken out in Civil Suit No. 655 of 1987. Since the main suit is disposed of by recording judgment of dismissal, this Appeal from Order does not survive as it has become infructuous.

5. In the result, the Appeal from Order is dismissed as it has become infructuous. However, there shall be no order as to costs.

(karan)